

## MEMORANDUM OF AGREEMENT

### MINE RESCUE

This Memorandum of Agreement is made this 1st day of April, 2002 by and between the **United States Department of Labor, Mine Safety and Health Administration** (herein **MSHA**) and the Commonwealth of Virginia's **Department of Mines, Minerals, and Energy, Division of Mines** (herein **DM**).

**Whereas, MSHA** is the regulatory authority of the United States Department of Labor for administering the Federal Mine Safety and Health Act of 1977 and the regulations promulgated thereunder, and amendments thereto, as the same may be or become effective any time or from time to time, for the purpose of providing for the health and safety of coal miners.

**Whereas, DM** is the regulatory authority of the Commonwealth responsible for administering the State Mine Safety Act, Virginia Code §§ 45.1-161.7 et. Seq., and the rules and regulations promulgated thereunder, (herein the State Mine Safety Act and the Rules and Regulations promulgated thereunder are collectively referred to as "**State Mine Safety Act**") for the purpose of providing for the safety and health of coal miners.

**Whereas, MSHA**, in 1980, issued a standard establishing minimum requirements for mine rescue teams in the following areas: Team size and availability; rescue equipment; storage and maintenance; rescue notification plans; and team member experience, physical examination and training records. The standard published in Title 30, Code of Federal Regulations, Part 49, (45 FR 46992, July 11, 1980) became effective July 11, 1981, requiring the mine operator either establish mine rescue teams or enter into an agreement for mine rescue services and designating in advance the location of the mine rescue station serving the mine.

**Whereas, Sections 45.1-161.73 through 45.1-161.76 of the Coal Mine Safety Laws of Virginia** authorize the DMME Director to enter into a contract with mine rescue teams to serve as State-designated teams.

**Whereas, it is anticipated that a number of underground mine operations in Virginia will comply with the requirements of part 49 by entering into an agreement with the State to provide mine rescue services through State-designated teams.**

**Whereas, to efficiently and effectively administer a program for MSHA monitoring of State-designated mine rescue stations, related equipment and records to ensure compliance with MSHA requirements, MSHA and DM desire to enter into this Memorandum of Agreement.**

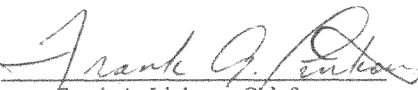
**Now, Therefore,** in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. This agreement shall not be construed as a delegation of authority from the District Manager of MSHA (herein District Manager) to the Chief of the Division of Mines (herein Chief), nor from the Chief to the District Manager and nothing herein contained shall be construed to hinder, prevent, or impede the District Manager or Chief from performing any duty or serving any function permitted or required by the respective Mine Safety Acts.
2. The District Manager, District 5, Coal Mine Safety and Health, MSHA, and the Chief, Commonwealth of Virginia, Department of Mines, Minerals, and Energy, Division of Mines, shall serve as liaisons to facilitate communication and cooperation between MSHA and the State under this Memorandum of Agreement.

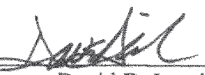
3. The District Manager, District 5, Coal Mine Safety and Health, MSHA, shall designate the MSHA representatives to conduct the inspections under this Memorandum of Agreement.
4. In order to ensure that State-designated mine rescue stations and teams comply with all applicable provisions of Part 49, MSHA representatives shall inspect each mine rescue station immediately upon becoming a State-designated station and thereafter, at least once every six months. Such inspections will be coordinated and conducted jointly by MSHA and DMME representatives.
5. The MSHA representative shall inspect the equipment, the storage environment, the equipment maintenance records, and other aspects of the mine rescue station as appropriate to determine compliance with the requirements of Part 49.
6. The MSHA representative shall also inspect the physical examination records and the training records of each mine rescue team member.
7. Any conditions or practices found to be in violation of Part 49 shall be brought to the attention of the appropriate State official at the time of the inspections. The State shall take prompt action to have such conditions or practices corrected. MSHA and the State shall cooperate to the fullest extent possible to ensure that the State-designated mine rescue stations and teams are ready to respond immediately to mine emergencies.
8. Nothing in this Memorandum of Agreement shall relieve mine operators of their responsibility to comply with other applicable provisions of Part 49.
9. This Memorandum of Agreement does not apply to State-designated teams that have a commercial contract, written or implied, to provide mine rescue services to a mine not participating in the State program.
10. This Memorandum of Agreement may be modified in writing by mutual consent of MSHA and the State.
11. This Memorandum of Agreement may be terminated at any time by either party giving written notice to the other party at least 30 days prior to the date termination is to take place.

**IN WITNESS WHEREOF**, this agreement has been executed by the parties hereto in manner and form sufficient to bind them as of the day and year first written.

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF MINES, MINERALS,  
AND ENERGY, DIVISION OF MINES

By   
Frank A. Linkous, Chief

UNITED STATES DEPARTMENT OF LABOR  
MINE SAFETY AND HEALTH ADMINISTRATION

By   
David D. Lauriski, Assistant Secretary